

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR.

J U D G M E N T

All Rajasthan Cooperative Bank Employees Union v. State of Rajasthan
and others.

D.B.CIVIL SPECIAL APPEAL(W) NO.799/1995

Date of Judgment :: 10th January, 2007

P R E S E N T

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE JUSTICE SHRI GOVIND MATHUR

Mr. R.N.Upadhyay, for the appellant.
Mr. B.L.Tiwari, Deputy Government Advocate.
Mr. M.R.Singhvi]
Mr. Rajesh Joshi] for the respondents.
Mr. S.Kapoor]

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BY THE COURT : (Per Hon'ble Mathur,J.)

This appeal is directed to challenge the order dated 12.9.1995 passed by learned Single Judge rejecting the writ petition on the ground of availability of alternative remedy to the appellant-petitioner under Section 10 of the Industrial Disputes Act, 1947.

The factual matrix giving rise to this appeal is that the Commissioner-cum-Secretary to the Government of Rajasthan, Department of Cooperatives, while exercising powers conferred by Rule 41 of the Rajasthan Cooperative Societies Rules, 1966 promulgated "ऋण पर्यवेक्षक चयन नियुक्ति एवं सेवा नियम, 1976" to regulate recruitment and other service conditions of Loan Supervisors employed to supervise disbursement of loan by various Central Cooperative Banks in State of Rajasthan.

In accordance with the procedure prescribed under the Rules of 1976 number of Loan Supervisors were recruited and posted with different Central Cooperative Banks operating in the State and as per Rule 1 of the Rules of 1976 the Supervisory Fund Committee i.e. also known as "Rajasthan Cooperative Credit Institute Cadre Authority", prescribed under Rule 2(g) of the Rules of 1976, was treated as their employer. The Loan Supervisors so employed through their union submitted a charter of demand to the Administrator, Supervisory Fund Committee, claiming for absorption of their service with the Central Cooperative Banks. After negotiations with the union of the Loan Supervisors the management on 10.6.1987 agreed to absorb the Loan Supervisors with services of the Central Cooperative Banks w.e.f. 1.7.1987. The agreement was drawn as a bipartite settlement dated 10.6.1987 (Anx.2)

The present appellant, a trade union having membership among the clerical and other award staff of various Central Cooperative Banks being aggrieved by the settlement referred above dated 10.6.1987 preferred writ petition before this Court to declare the settlement illegal being having adverse effects upon the service conditions of its members. The writ petition aforesaid came to be rejected by order dated 12.9.1995, hence this appeal under Section 18 of the Rajasthan High Court Ordinance is preferred.

While giving challenge to the order impugned the contention of counsel for the appellant is that learned Single Judge while dismissing the petition for writ on the ground of availability of alternative remedy also held that the petition is having no substance or merit and that amounts adjudication of issue involved in the petition without looking into the merits.

Learned counsel for the respondents quite fairly stated that the matter can be heard on merits ignoring the issue with regard to availability of alternative remedy. Since the question pertains to an issue of the year 1987 and this appeal was admitted by this Court much back in the year 1995, we are also of the view that the matter should be heard on merits. Accordingly, the appeal is heard on merits.

Heard the counsel for the parties.

The sole contention of the appellant is that the Loan Supervisors' Union, the Rajasthan Cooperative Credit Institute Cadre Authority Ltd. and the Rajasthan State Cooperative Banks Ltd., Jaipur entered into an agreement that effects service conditions of clerical staff working with the Central Cooperative Banks adversely, specially the chances for promotion to next higher post, as such the settlement arrived on 10.6.1987 and circulated under the communication dated 1.7.1987 is arbitrary, therefore, deserves to be declared illegal.

We do not find any force in the contention so raised for the simple reason that the settlement impugned in quite unambiguous terms protects all rights of the clerical staff working with the Central Cooperative Banks. Clauses (5) and (6) of the settlement specifically mention that there shall be separate seniority list for the Loan Supervisors and the clerical staff working with the bank. It is further clarified that absorption of Loan Supervisors in services of the bank shall be having no effect upon the service conditions of the clerical staff already working with the banks. The relevant portion of the settlement reads as follows:-

“(5) ऋण पर्यवेक्षकों की वरिष्ठता सूची वर्तमान वरिष्ठता सूची के अनुरूप ही बैंक के लिपिक वर्ग से पृथक होगी। सम्बन्धित बैंक की लिपिक वर्ग की वरिष्ठता सूची पर, इनकी बैंक कर्मचारी घोषित किये जाने का कोई प्रभाव नहीं होगा तथा उनके तत्सम्बन्धी हित पूर्ववत् सुरक्षित रहेंगे।

(6) ऋण पर्यवेक्षकों की पदोन्नति का पेनल सहायक अधिशासी अधिकारी के पद पर होगा। ऋण पर्यवेक्षकों का शाखा व्यवस्थापकों के पद पर पदोन्नति के लिए कोई हक नहीं होगा। शाखा व्यवस्थापकों के पद पर पदोन्नति के लिए उपलब्ध पद पूर्णतया बैंक के लिपिक वर्ग के लिए ही होंगे।”

From reading of the clauses (5) and (6) referred above it is apparent that apprehension of the appellant with regard to adverse effect of the settlement impugned is ill-founded. Clause (6) of the settlement mentions without any ambiguity that the Loan Supervisors shall be having no right for promotion to the post of Branch Manager and promotion to that post shall be available to clerical staff only.

Though the prayer to declare Rule 41 of the Rajasthan Cooperative Societies Rules, 1966 illegal is also made but the same has not been pressed in service by counsel for the appellant in view of the fact that the provision concerned has already been declared valid by Division Bench of this Court in the case of

Mohanlal Prajapat v. The Central Cooperative Bank Ltd., Jodhpur & Ors. (RLW 1994(1), 384).

In view of whatever stated above, the order of learned Single Judge dismissing the writ petition, although for a different reason, does not require any interference.

Accordingly, the special appeal is dismissed.

(GOVIND MATHUR),J.

(S.N.JHA),C.J.

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